

STATE OF SOUTH CAROLINA

COUNTY OF DILLONNOCHUS H.M. BERRY

Plaintiff(s)

vs.

PERDUE FARMS INC.  
PERDUE TRANSPORTATION INC.

Defendant(s)

Submitted By: P.O. BOX 1061Address: APEX, NC 27502

IN THE COURT OF COMMON PLEAS

CIVIL ACTION COVERSHEET

2019-CP-17-052

SC Bar #:

Telephone #:

Fax #:

Other:

E-mail:

NOTE: The coversheet and information contained herein neither replaces nor supplements the filing and service of pleadings or other papers as required by law. This form is required for the use of the Clerk of Court for the purpose of docketing cases that are NOT E-Filed. It must be filled out completely, signed, and dated. A copy of this coversheet must be served on the defendant(s) along with the Summons and Complaint. This form is NOT required to be filed in E-Filed Cases.

## DOCKETING INFORMATION (Check all that apply)

\*If Action is Judgment/Settlement do not complete

- ☒ JURY TRIAL demanded in complaint. ☐ NON-JURY TRIAL demanded in complaint.
- ☐ This case is subject to ARBITRATION pursuant to the Court Annexed Alternative Dispute Resolution Rules.
- ☐ This case is subject to MEDIATION pursuant to the Court Annexed Alternative Dispute Resolution Rules.
- ☐ This case is exempt from ADR. (Proof of ADR/Exemption Attached)

## NATURE OF ACTION (Check One Box Below)

- |  |  |  |  |
|--|--|--|--|
| <b>Contracts</b><br><input type="checkbox"/> Constructions (100)<br><input type="checkbox"/> Debt Collection (110)<br><input type="checkbox"/> General (130)<br><input type="checkbox"/> Breach of Contract (140)<br><input type="checkbox"/> Fraud/Bad Faith (150)<br><input type="checkbox"/> Failure to Deliver/Warranty (160)<br><input type="checkbox"/> Employment Discrim (170)<br><input checked="" type="checkbox"/> Employment (180)<br><input type="checkbox"/> Other (199) _____ | <b>Torts - Professional Malpractice</b><br><input type="checkbox"/> Dental Malpractice (200)<br><input type="checkbox"/> Legal Malpractice (210)<br><input type="checkbox"/> Medical Malpractice (220)<br>Previous Notice of Intent Case #<br>20 ____ -NI- ____<br><input type="checkbox"/> Notice/ File Med Mal (230)<br><input type="checkbox"/> Other (299) _____                                       | <b>Torts - Personal Injury</b><br><input type="checkbox"/> Conversion (310)<br><input type="checkbox"/> Motor Vehicle Accident (320)<br><input type="checkbox"/> Premises Liability (330)<br><input type="checkbox"/> Products Liability (340)<br><input type="checkbox"/> Personal Injury (350)<br><input type="checkbox"/> Wrongful Death (360)<br><input type="checkbox"/> Assault/Battery (370)<br><input type="checkbox"/> Slander/Libel (380)<br><input type="checkbox"/> Other (399) _____  | <b>Real Property</b><br><input type="checkbox"/> Claim & Delivery (400)<br><input type="checkbox"/> Condemnation (410)<br><input type="checkbox"/> Foreclosure (420)<br><input type="checkbox"/> Mechanic's Lien (430)<br><input type="checkbox"/> Partition (440)<br><input type="checkbox"/> Possession (450)<br><input type="checkbox"/> Building Code Violation (460)<br><input type="checkbox"/> Other (499) _____  |
| <b>Inmate Petitions</b><br><input type="checkbox"/> PCR (500)<br><input type="checkbox"/> Mandamus (520)<br><input type="checkbox"/> Habeas Corpus (530)<br><input type="checkbox"/> Other (599) _____   | <b>Administrative Law/Relief</b><br><input type="checkbox"/> Reinstate Drv. License (800)<br><input type="checkbox"/> Judicial Review (810)<br><input type="checkbox"/> Relief (820)<br><input type="checkbox"/> Permanent Injunction (830)<br><input type="checkbox"/> Forfeiture-Petition (840)<br><input type="checkbox"/> Forfeiture—Consent Order (850)<br><input type="checkbox"/> Other (899) _____ | <b>Judgments/Settlements</b><br><input type="checkbox"/> Death Settlement (700)<br><input type="checkbox"/> Foreign Judgment (710)<br><input type="checkbox"/> Magistrate's Judgment (720)<br><input type="checkbox"/> Minor Settlement (730)<br><input type="checkbox"/> Transcript Judgment (740)<br><input type="checkbox"/> Lis Pendens (750)<br><input type="checkbox"/> Transfer of Structured Settlement Payment Rights Application (760)<br><input type="checkbox"/> Confession of Judgment (770)<br><input type="checkbox"/> Petition for Workers Compensation Settlement Approval (780)<br><input type="checkbox"/> Incapacitated Adult Settlement (790)<br><input type="checkbox"/> Other (799) _____ | <b>Appeals</b><br><input type="checkbox"/> Arbitration (900)<br><input type="checkbox"/> Magistrate-Civil (910)<br><input type="checkbox"/> Magistrate-Criminal (920)<br><input type="checkbox"/> Municipal (930)<br><input type="checkbox"/> Probate Court (940)<br><input type="checkbox"/> SCDOT (950)<br><input type="checkbox"/> Worker's Comp (960)<br><input type="checkbox"/> Zoning Board (970)<br><input type="checkbox"/> Public Service Comm. (990)<br><input type="checkbox"/> Employment Security Comm (991)<br><input type="checkbox"/> Other (999) _____ |
| <b>Special/Complex /Other</b><br><input type="checkbox"/> Environmental (600)<br><input type="checkbox"/> Automobile Arb. (610)<br><input type="checkbox"/> Medical (620)<br><input type="checkbox"/> Other (699) _____<br><input type="checkbox"/> Sexual Predator (510)<br><input type="checkbox"/> Permanent Restraining Order (680)<br><input type="checkbox"/> Interpleader (690)   |  |  |  |
| <input type="checkbox"/> Pharmaceuticals (630)<br><input type="checkbox"/> Unfair Trade Practices (640)<br><input type="checkbox"/> Out-of State Depositions (650)<br><input type="checkbox"/> Motion to Quash Subpoena in an Out-of-County Action (660)<br><input type="checkbox"/> Pre-Suit Discovery (670)  |  |  |  |

Submitting Party Signature:

Nochus H. Michael BerryDate: Thurs 7 Jan 2019

Note: Frivolous civil proceedings may be subject to sanctions pursuant to SCRPC, Rule 11, and the South Carolina Frivolous Civil Proceedings Sanctions Act, S.C. Code Ann. §15-36-10 et. seq.

STATE OF SOUTH CAROLINA, )  
 )  
 COUNTY OF DILLON )  
 )  
NOCHUS H. M. BERRY )  
 Plaintiff, )  
 )  
 vs. )  
PEROVE FARMS, INC. )  
PERDUE TRANSPORTATION INC. )  
 Defendant. )

IN THE COURT OF COMMON PLEAS

SUMMONS

FILE NO. \_\_\_\_\_-CP-\_\_\_\_\_-\_\_\_\_\_

**2019-CP-17 052**

TO THE DEFENDANT ABOVE-NAMED:

YOU ARE HEREBY SUMMONED and required to answer the complaint herein, a copy of which is herewith served upon you, and to serve a copy of your answer to this complaint upon the subscriber, at the address shown below, within thirty (30) days after service hereof, exclusive of the day of such service, and if you fail to answer the complaint, judgment by default will be rendered against you for the relief demanded in the complaint.

DILLON, South Carolina

Dated: FEB 7 2019 MB

Nochus H. Michael Berry  
 Plaintiff/Attorney for Plaintiff

Address: P.O. Box 1061, APEX NC 27502

FILED  
 GWENTHYATT  
 2019 FEB -7 P 4:24  
 CLERK OF COURT  
 DILLON COUNTY

**Nochus H. Michael Berry  
P.O. Box 1061  
Apex, North Carolina 27502**

**2019-CP-17 052**

vs.

**Perdue Farms, Inc.  
2047 Highway 9W  
Dillon, South Carolina 29536**

**Perdue Transportation, Inc.  
6906 Zion Church Road  
Salisbury, Maryland 21801**

**FILED  
GWENTHYATT  
2019 FEB -7 P 4: 24  
CLERK OF COURT  
DILLON COUNTY**

**FOR A THIRD CAUSE OF ACTION  
Workers Compensation Retaliation Claim (S.C. Law 41-180)**

- 1. The Plaintiff re-alleges all foregoing as if restated herein verbatim.**
- 2. The plaintiff instituted workers compensation proceedings, within the meaning of the Act and the interpreting case law.**
- 3. The Defendants Discharged the Plaintiff, after initiated Workers Compensation proceedings.**
- 4. There was a casual connection between the plaintiffs discharge and South Carolinas' Workers Compensation proceedings.**
- 5. The discharge of the Plaintiff, was significantly motivated by retaliation for exercise of statutory rights under workers compensation law.**
- 6. The employers proffered explanation for the discharge, is unworthy of credence.**
- 7. Plaintiff is entitled to judgement awarding all due lost wages due, prejudgment interest, post-judgement interest, reinstatement of loss of original position, and wages, and reasonable attorneys' fees and costs.**

**PRAYER FOR RELIEF**

**WHEREFORE**, the prays for judgment against the defendants for all injuries, and damages, punitive damages, fees and costs and equitable remedies set forth in this complaint and/or allowed, provided for or permitted by the common law, statutory law, by the Americans with Disabilities' Act (ADA), the Payment of Wages Act, the Workers' Compensation Law, such an amount as shall be determined by the finder of fact under evidence presented at trial, and for an Order requiring the defendant to bring its policies, procedures, training and supervision in compliance with the ADA, the Payment of Wages Act, the Workers, Compensation Law and for further relief as the Court may deem just and proper.

DILLON, South Carolina

Thomas J. Michael Berry  
Plaintiff/ Attorney for Plaintiff

Dated 7 Feb 2019

Address: P.O. Box 1061, APEX NC 27502

FILED  
GWENTHYATT  
2019 FEB -7 P 4:24  
CLERK OF COURT  
DILLON COUNTY

<b>STATE OF SOUTH CAROLINA</b>	)	<b>THE COURT OF COMMON PLEAS</b>
	)	
<b>COUNTY OF DILLON</b>	)	<b>C.A. No. 2019-CP-17-00052</b>
<b>Nochus H.M. Berry,</b>	)	
	)	
<b>Plaintiff,</b>	)	
	)	
<b>v.</b>	)	
	)	
<b>Perdue Farms, Inc., and Perdue,</b>	)	
<b>Transportation, Inc.,</b>	)	
	)	
<b>Defendants.</b>	)	
	)	

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**NOTICE OF FILING NOTICE OF REMOVAL**

TO: The Honorable Gwen T. Hyatt  
Clerk of Court  
P.O. Box 1220  
Dillon, South Carolina 29536-1220

Nochus H.Michael Berry  
P.O. Box 1061  
Apex, NC 27502

PLEASE TAKE NOTICE that the Defendants in the above-captioned action have, on the 15<sup>th</sup> day of March, 2019, filed its Notice of Removal in the Office of the Clerk of the United States District Court for the District of South Carolina, Division. (Attachment A.) Pursuant to 28 U.S.C. § 1446(d), the Court of Common Pleas for Dillon County, South Carolina shall proceed no further unless or until the case is remanded.

[DATE & SIGNATURE BLOCK ON NEXT PAGE]

Dated this 15<sup>th</sup> day of March, 2019.

Respectfully submitted,

OGLETREE, DEAKINS, NASH,  
SMOAK & STEWART, P.C.

By: s/Lucas J. Asper  
Lucas J. Asper (Fed. ID 10588)  
M. Brooks Miller (Fed. ID 11527)  
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**Attorneys for Defendant**

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